

IC 20-26-11

Chapter 11. Legal Settlement and Transfer of Students; Transfer Tuition

IC 20-26-11-1

"Residence", "resides", and comparable terms

Sec. 1. As used in this chapter with respect to legal settlement, transfers, and the payment of tuition, the words "residence", "resides", or other comparable language means a permanent and principal habitation that an individual uses for a home for a fixed or indefinite period, at which the individual remains when not called elsewhere for work, studies, recreation, or other temporary or special purpose. These terms are not synonymous with legal domicile. Where a court order grants an individual custody of a student, the residence of the student is where that individual resides.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-2

Legal settlement

Sec. 2. The legal settlement of a student is governed by the following provisions:

(1) If the student:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age but is not emancipated;

the legal settlement of the student is in the attendance area of the school corporation where the student's parents reside.

(2) If the student's mother and father, in a situation to which subdivision (1) otherwise applies, are divorced or separated, the legal settlement of the student is the school corporation whose attendance area contains the residence of the parent with whom the student is living, in the following situations:

(A) If a court order has not been made establishing the custody of the student.

(B) If both parents have agreed on the parent or person with whom the student will live.

(C) If the parent granted custody of the student has abandoned the student. In the event of a dispute between the parents of the student, or between the parents and a student at least eighteen (18) years of age, the legal settlement of the student shall be determined as otherwise provided in this section.

(3) If the legal settlement of a student, in a situation to which subdivision (1) otherwise applies, cannot reasonably be determined and the student is being supported by, cared for by, and living with some other individual, the legal settlement of the student is in the attendance area of that individual's residence, except where the parents of the student are able to support the student but have placed the student in the home of another individual, or allowed the student to live with another

individual, primarily for the purpose of attending school in the attendance area where the other individual resides. The school may, if the facts are in dispute, condition acceptance of the student's legal settlement on the appointment of that individual as legal guardian or custodian of the student, and the date of legal settlement will be fixed to coincide with the commencement of the proceedings for the appointment of a guardian or custodian. However, if a student does not reside with the student's parents because the student's parents are unable to support the child and the child is not residing with an individual other than a parent primarily to attend a particular school, the student's legal settlement is where the student resides, and the establishment of a legal guardianship may not be required by the school. In addition, a legal guardianship or custodianship established solely to attend school in a particular school corporation does not affect the determination of the legal settlement of the student under this chapter.

(4) If a student, to whom subdivision (1) would otherwise apply, is married and living with a spouse, the legal settlement of that student is in the attendance area of the school corporation where the student and the student's spouse reside.

(5) If the student's parents:

(A) are living outside the United States due to educational pursuits or a job assignment;

(B) do not maintain a permanent home in any school corporation in the United States; and

(C) have placed the student in the home of another individual;

the legal settlement of the student is in the attendance area where the other individual resides.

(6) If the student is emancipated, the legal settlement is the attendance area of the school corporation of the student's residence.

(7) If a student's legal settlement is changed after the student has begun attending school in a school corporation in any school year, the effective date of change may:

(A) at the election of:

(i) the parent;

(ii) the student if the student is at least eighteen (18) years of age; or

(iii) a juvenile court conducting a proceeding under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);

be extended until the end of that semester; or

(B) at the discretion of the school, until the end of that school year.

However, that election, where a student has completed grade 11 in any school year, shall extend to the end of the following school year in grade 12.

(8) If a juvenile court has:

(A) made findings of fact concerning the legal settlement of a student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and

(B) jurisdiction over the student under IC 31-34 or IC 31-37; the legal settlement of the student is the attendance area specified as the legal settlement in the latest findings of fact issued by the juvenile court.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-3

Forms concerning legal settlement

Sec. 3. The state superintendent shall prepare the form of agreement to be used under section 2(2) of this chapter and a form to be executed by any individual with whom the student is living under section 2(2), 2(3), or 2(5) of this chapter. The execution of the form by the individual and its continuance in force is a condition to the application of section 2(2), 2(3), or 2(5) of this chapter. The form must contain an agreement of the individual that the individual shall, with respect to dealing with the school corporation and for all other purposes under this article, assume all the duties and be subject to all the liabilities of a parent of the student in the same manner as if the individual were the student's parent. On the execution of that form and for as long as it remains in force, the individual has these duties and liabilities.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-4

Appeal from determination of legal settlement

Sec. 4. A student is emancipated when the student:

- (1) furnishes the student's support from the student's own resources;
- (2) is not dependent in any material way on the student's parents for support;
- (3) files or is required by applicable law to file a separate tax return; and
- (4) maintains a residence separate from that of the student's parents.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-5

Transfer at request of parent or student; approval; appeal

Sec. 5. (a) The parents of any student, regardless of the student's age, or the student after the student has become eighteen (18) years of age may request a transfer from a school corporation in which the student has a legal settlement to a transferee school corporation in Indiana or another state if the student may be better accommodated in the public schools of the transferee corporation. Whether the student can be better accommodated depends on such matters as:

- (1) crowded conditions of the transferee or transferor

corporation; and

(2) curriculum offerings at the high school level that are important to the vocational or academic aspirations of the student.

(b) The request for transfer must be made in writing to the transferor corporation, which shall immediately mail a copy to the transferee corporation. The request for transfer must be made at the times provided under rules adopted by the state board. The transfer is effected if both the transferee and the transferor corporations approve the transfer not more than thirty (30) days after that mailing. If the transferor school corporation fails to act on the transfer request within thirty (30) days after the request is received, the transfer is considered approved. The transfer is denied when either school corporation: mails a written denial by certified mail to the requesting parents or student at their last known address.

(c) If a request for transfer is denied under subsection (b), an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of commencing the appeal. An appeal hearing must comply with section 15 of this chapter.

As added by P.L.1-2005, SEC.10. Amended by P.L.89-2005, SEC.3.

IC 20-26-11-6

Cash transfers

Sec. 6. (a) A school corporation may accept a transferring student without approval of the transferor corporation under section 5 of this chapter.

(b) A transfer may not be accepted unless the requesting parents or student pays transfer tuition in an amount determined under the formula established in section 13 of this chapter for the payment of transfer tuition by a transferor school corporation. However, the transferee school may not offset the amounts described in section 13(b) STEP TWO (B) through section 13(b) STEP TWO (D) of this chapter from the amount charged to the requesting parents or student.

(c) The tuition determined under subsection (b) must be paid by the parents or the student before the end of the school year in installments as determined by the transferee corporation.

(d) Failure to pay a tuition installment is a ground for exclusion from school.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-7

Transfers; students with disabilities

Sec. 7. (a) A school corporation may transfer a student with a physical, emotional, or mental disability to a transferee corporation that maintains special programs or facilities for children with the

disability of the transferred student.

(b) A transferee corporation may refuse the transfer under subsection (a) by mailing a notice by certified mail to:

- (1) the transferor corporation;
- (2) the parents of the student; and
- (3) the state board.

(c) If a transferee corporation refuses transfer under subsection (b), the state board shall determine the question of granting a transfer under the procedures set out in section 15 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-8 Version a

Payment of transfer tuition for students in public and private institutions or in foster homes

Note: This version of section amended by P.L.89-2005, SEC.4. See also following version of this section amended by P.L.231-2005, SEC.33.

Sec. 8. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

- (1) by or with the consent of the division of family and children;
- (2) by a court order; or
- (3) by a child placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

- (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
- (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition

according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(c)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability, aging, and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

(d) A student:

- (1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); and
- (2) for whom there is no other entity or person required to pay transfer tuition;

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

As added by P.L.1-2005, SEC.10. Amended by P.L.89-2005, SEC.4.

IC 20-26-11-8 Version b

Payment of transfer tuition for students in public and private institutions or in foster homes

Note: This version of section amended by P.L.231-2005, SEC.33. See also preceding version of this section amended by P.L.89-2005, SEC.4.

Sec. 8. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

- (1) by or with the consent of the division of family and children;
- (2) by a court order; or
- (3) by a child placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

- (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
- (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(b)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability, aging, and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

As added by P.L.1-2005, SEC.10. Amended by P.L.231-2005, SEC.33.

IC 20-26-11-9

Notice of legal settlement and placement

Sec. 9. (a) This section applies to each student:

- (1) described in section 8(a) of this chapter;
- (2) who is placed in a home or facility in Indiana that is outside the school corporation where the student has legal settlement; and
- (3) for which the state is not obligated to pay transfer tuition.

(b) Not later than ten (10) days after a county places or changes the placement of a student, the county that placed the student shall notify the school corporation where the student has legal settlement and the school corporation where the student will attend school of the placement or change of placement. Before June 30 of each year, a county that places a student in a home or facility shall notify the school corporation where a student has legal settlement and the school corporation in which a student will attend school if a student's placement will continue for the ensuing school year. The notifications required under this subsection must be made by:

- (1) the county office (as defined in IC 12-7-2-45) if the county office or the division of family and children placed or consented to the placement of the student; or
- (2) if subdivision (1) does not apply, the court or other agency making the placement.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-10

Tuition for children of certain state employees and foreign exchange students

Sec. 10. (a) A student who is the child of a state employee who resides on state owned property, resides on state owned property, or is the child of a full-time employee of a state supported postsecondary institution, who resides on property owned or operated by the state supported postsecondary institution and used for educational, research, or public service programs is considered a transferred student if:

- (1) the student attends a public school in the school corporation located nearest to the student's residence within the county in which all or a part of either the state owned property, or the property owned or operated by the state supported postsecondary institution, is located; or
- (2) the state owned property is the Soldiers' and Sailors' Children's Home and the student attends a public school in the county in which the home is located or in an adjacent county.

Transfer tuition for a student transferred under this subsection shall be paid by the state. However, this subsection does not apply to children of state employees residing in student housing on property owned by any state supported postsecondary school institution.

(b) A foreign student visiting in Indiana under any student exchange program approved by the state board is considered a resident student with legal settlement in the school corporation where the foreign exchange student resides. The student may attend a school in the school corporation in which the family with whom the student is living resides. A school corporation that receives a foreign student may not be paid any transfer tuition. The school corporation shall include the foreign student in computations to determine the amount of state aid that it is entitled to receive.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-11

Tuition for suspended, expelled, or excluded emotionally disturbed students

Sec. 11. (a) A school corporation may enter into an agreement with:

- (1) a nonprofit corporation that operates a federally approved education program; or
- (2) a nonprofit corporation that:
 - (A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
 - (B) for its classroom instruction, employs teachers who are certified by the department;
 - (C) employs other professionally and state licensed staff as appropriate; and
 - (D) educates children who:
 - (i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to be emotionally disturbed;
 - (ii) have been placed with the nonprofit corporation by court order;
 - (iii) have been referred by a local health department; or
 - (iv) have been placed in a state licensed private or public health care or child care facility as described in section 8(b) of this chapter;

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon from the transfer tuition of the student. The amount agreed upon may not exceed the transfer tuition costs that otherwise would be payable to the transferee corporation.

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed the transfer tuition costs that otherwise would be payable to a transferee school corporation.

As added by P.L.1-2005, SEC.10. Amended by P.L.246-2005, SEC.131.

IC 20-26-11-12

Interstate transfers

Sec. 12. (a) If a student is transferred under section 5 of this chapter from a school corporation in Indiana to a public school corporation in another state, the transferor corporation shall pay the transferee corporation the full tuition fee charged by the transferee corporation. However, the amount of the full tuition fee may not exceed the amount charged by the transferor corporation for the same class of school, or if the school does not have the same classification, the amount may not exceed the amount charged by the

geographically nearest school corporation in Indiana that has the same classification.

(b) If a child is:

(1) placed by a court order in an out-of-state institution or other facility; and

(2) provided all educational programs and services by a public school corporation in the state where the child is placed, whether at the facility, the public school, or another location; the county office of family and children for the county placing the child shall pay from the county family and children's fund to the public school corporation in which the child is enrolled the amount of transfer tuition specified in subsection (c).

(c) The transfer tuition for which a county office is obligated under subsection (b) is equal to the following:

(1) The amount under a written agreement among the county office, the institution or other facility, and the governing body of the public school corporation in the other state that specifies the amount and method of computing transfer tuition.

(2) The full tuition fee charged by the transferee corporation, if subdivision (1) does not apply. However, the amount of the full tuition fee must not exceed the amount charged by the transferor corporation for the same class of school, or if the school does not have the same classification, the amount must not exceed the amount charged by the geographically nearest school corporation in Indiana that has the same classification.

(d) If a child is:

(1) placed by a court order in an out-of-state institution or other facility; and

(2) provided:

(A) onsite educational programs and services either through the facility's employees or by contract with another person or organization that is not a public school corporation; or

(B) educational programs and services by a nonpublic school;

the county office of family and children for the county placing the child shall pay from the county family and children's fund in an amount and in the manner specified in a written agreement between the county office and the institution or other facility.

(e) An agreement described in subsection (c) or (d) is subject to the approval of the director of the division of family and children. However, for purposes of IC 4-13-2, the agreement shall not be treated as a contract.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-13

Determination of transfer tuition

Sec. 13. (a) As used in this section, the following terms have the following meanings:

(1) "ADM" means the following:

(A) For purposes of allocating to a transfer student state

distributions under IC 21-1-30 (primetime), "ADM" as computed under IC 21-1-30-2.

(B) For all other purposes, "ADM" as set forth in IC 21-3-1.6-1.1.

(2) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, vocational training, or career education.

(3) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized education program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

(4) "Student enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the state board.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the state board.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) student. The state board may select a different date for counts under this subdivision. However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 6 of this chapter, transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the

school year ends:

(A) The following state distributions that are computed in any part using ADM or other student count in which the student is included:

- (i) Primetime grant under IC 21-1-30.
- (ii) Tuition support for basic programs.
- (iii) Enrollment growth grant under IC 21-3-1.7-9.5.
- (iv) At-risk grant under IC 21-3-1.7-9.7.
- (v) Academic honors diploma award under IC 21-3-1.7-9.8.
- (vi) Vocational education grant under IC 21-3-12.
- (vii) Special education grant under IC 21-3-2.1.
- (viii) The portion of the ADA flat grant that is available for the payment of general operating expenses under IC 21-3-4.5-2(b)(1).

(B) Property tax levies.

(C) Excise tax revenue (as defined in IC 21-3-1.7-2) received for deposit in the calendar year in which the school year begins.

(D) Allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana under a court order, the institution or facility shall charge the county office of the county of the student's legal settlement under IC 12-19-7 for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

- (1) capital outlay;
- (2) debt service;
- (3) costs of transportation;
- (4) salaries of board members;
- (5) contracted service for legal expenses; and
- (6) any expenditure that is made out of the general fund from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

- (1) the cost of the special equipment; divided by
- (2) the product of:
 - (A) the useful life of the special equipment, as determined under the rules adopted by the state board; multiplied by

(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

- (1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by
- (2) the student enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence, the student has been excluded or expelled from school for the balance of the school year or for an indefinite period, or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in subsection (b) STEP TWO to a transfer student by dividing:

- (1) the total amount of revenues received; by
- (2) the ADM of the transferee school for the school year that ends in the calendar year in which the revenues are received.

However, for state distributions under IC 21-1-30, IC 21-3-2.1, IC 21-3-12, or any other statute that computes the amount of a state distribution using less than the total ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive in a calendar year by the student count used to compute the state distribution.

(h) Instead of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the transfer of students. The contract may:

- (1) be entered into for a period of not more than five (5) years with an option to renew;
- (2) specify a maximum number of students to be transferred; and
- (3) fix a method for determining the amount of transfer tuition

and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) If the school corporation can meet the requirements of IC 21-1-30-5, it may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

- (1) be for one (1) year or longer; and
- (2) fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

(j) If a school corporation experiences a net financial impact with regard to transfer tuition that is negative for a particular school year as described in IC 6-1.1-19-5.1, the school corporation may appeal for an excessive levy as provided under IC 6-1.1-19-5.1.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-14

Estimated transfer tuition payments; statements of amount; method of payment

Sec. 14. (a) Not later than March 1, a school corporation shall estimate the:

- (1) transfer tuition payments that the school corporation is required to pay for students transferring from the school corporation; and
- (2) transfer tuition payments that the school corporation is entitled to receive on behalf of students transferring to the school corporation.

A school corporation shall send a preliminary statement of the amount of transfer tuition due to the state agency and to any school corporation that owes transfer tuition to the school corporation.

(b) Not later than October 1 following the end of a school year, a school corporation shall send a final statement of the amount of transfer tuition due to the state agency and to any school corporation that owes transfer tuition to the school corporation.

(c) A statement sent under subsection (a) or (b) must include the following:

- (1) A statement, to the extent known, of all transfer tuition costs chargeable to the state or school corporation for the school year ending in the current calendar year.
- (2) A statement of any transfer tuition costs chargeable to the state or school corporation and not previously billed for the school year ending in the immediately preceding calendar year.
- (3) A statement of any transfer tuition costs previously billed to the state or school corporation and not yet paid.

(d) Transfer tuition for each school year shall be paid by the transferor corporation or state, if the entity is obligated to pay the tuition, in not more than four (4) installments. These installments

must be paid not later than October 30, January 10, April 10, and July 10 following the school year in which the obligation is incurred, unless another schedule is mutually agreed upon.

(e) Payment of operating costs shall be paid from and receipted to the respective general funds of the transferor and transferee corporations. Payment of capital costs shall be made by the transferor corporation at its discretion from any fund or source and shall be receipted by the transferee corporation at its discretion either to the capital projects fund or to the debt service fund, or if the transferee corporation has neither of these two (2) funds, to its general fund.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-15

Determination by state board

Sec. 15. (a) The state board shall hear the following:

- (1) All appeals from an order expelling a child under IC 20-33-8-17.
- (2) All appeals provided in this chapter.
- (3) All disputes on the following:
 - (A) Legal settlement.
 - (B) Right to transfer.
 - (C) Right to attend school in any school corporation.
 - (D) Amount of transfer tuition.
 - (E) Any other matter arising under this chapter.

The board shall hold a hearing on the timely written application of any interested party.

(b) The state board shall make its determination under the following procedure:

- (1) A hearing shall be held on each matter presented.
- (2) Each interested party, including where appropriate, the parents, the student, the transferor corporation, the transferee corporation, or the state, shall be given at least ten (10) days notice of the hearing by certified mail or by personal delivery.
- (3) The date of giving the notice is the date of mailing or delivery.
- (4) Any interested party may appear at the hearing in person or by counsel, present evidence, cross-examine witnesses, and present in writing or orally summary statements of position.
- (5) A written or recorded transcript of the hearing shall be made.
- (6) The hearing may be held by the state board or by a hearing examiner appointed by it who must be a state employee.
- (7) The hearing, at the option of the state board or hearing examiner, may be held at any place in Indiana.
- (8) The hearing examiner shall make written findings of fact and recommendations.
- (9) The determination of the state board must be made on the basis of the record, summaries, and findings, but it is required to examine only those parts of the entire record as it considers necessary.

- (c) The hearing and proceedings are not governed by IC 4-21.5.
- (d) The determination of the state board is final and binding on the parties to the proceeding.
- (e) A notice of the state board's determination shall be mailed to each party by certified mail. An action to contest the validity of the decision may not be instituted more than thirty (30) days after the mailing of the notice.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-16

Rules of implementation and enforcement; award to prevailing school corporation

Sec. 16. (a) The provisions to implement this chapter, including:

- (1) the calculation of transfer tuition;
- (2) the credits for state distribution; and
- (3) the time in the year when requests for transfer must be filed;

shall be implemented by rules adopted by the state board.

(b) The state board shall adopt rules for the enforcement of the payment of transfer tuition. The enforcement may include withholding state support from the transferor corporation for the benefit of the transferee corporation, charging interest, penalties for late payment, and the costs of collection.

(c) If a school corporation prevails at the final adjudication of:

- (1) an administrative proceeding under this chapter; or
- (2) a lawsuit against a school corporation;

to compel payment of transfer tuition owed by the school corporation under this chapter, the administrative body or the court shall award to the prevailing party the transfer tuition owed, if any, plus reasonable attorney's fees and interest as provided by law.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-17

Tuition support reporting requirements

Sec. 17. (a) Each year before the date specified in the rules adopted by the state board, a school corporation shall report the information specified in subsection (b) for each student:

- (1) for whom tuition support is paid by another school corporation;
- (2) for whom tuition support is paid by the state; and
- (3) who is enrolled in the school corporation but has the equivalent of a legal settlement in another state or country;

to the county office (as defined in IC 12-7-2-45) for the county in which the principal office of the school corporation is located and to the department.

(b) Each school corporation shall provide the following information for each school year for each category of student described in subsection (a):

- (1) The amount of tuition support and other support received for the students described in subsection (a).
- (2) The operating expenses, as determined under section 13 of

this chapter, incurred for the students described in subsection (a).

(3) Special equipment expenditures that are directly related to educating students described in subsection (a).

(4) The number of transfer students described in subsection (a).

(5) Any other information required under the rules adopted by the state board after consultation with the office of the secretary of family and social services.

(c) The information required under this section shall be reported in the format and on the forms specified by the state board.

(d) Not later than November 30 of each year the department shall compile the information required from school corporations under this section and submit the compiled information in the form specified by the office of the secretary of family and social services to the office of the secretary of family and social services.

(e) Not later than November 30 of each year each county office shall submit the following information to the office of the secretary of family and social services for each child who is described in IC 12-19-7-1(1) and is placed in another state or is a student in a school outside the school corporation where the child has legal settlement:

(1) The name of the child.

(2) The name of the school corporation where the child has legal settlement.

(3) The last known address of the custodial parent or guardian of the child.

(4) Any other information required by the office of the secretary of family and social services.

(f) Not later than December 31 of each year, the office of the secretary of family and social services shall submit a report to the members of the budget committee and the executive director of the legislative services agency that compiles and analyzes the information required from school corporations under this section. The report must identify the types of state and local funding changes that are needed to provide adequate state and local money to educate transfer students. A report submitted under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-18

Joint liability of health care facility or child care institution for transfer tuition

Sec. 18. (a) If a student:

(1) has legal settlement in the attendance area of a school corporation in another state, when legal settlement is determined without regard to the appointment of a guardian in Indiana solely to facilitate the placement of the student in a facility described in subdivision (2);

(2) is placed in a state licensed private or public health care

facility, private or public child care institution, or treatment center in Indiana by:

(A) the parent of the student; or

(B) a governmental entity in another state; and

(3) is enrolled in a school corporation in Indiana;

the state licensed private or public health care facility, private or public child care institution, or treatment center where the student is placed, regardless of when the student is placed, is jointly liable with the person placing the student for transfer tuition under this chapter.

(b) Notwithstanding subsection (a), a sole proprietorship, a partnership, an association, a corporation, a limited liability company, a fiduciary, an individual who is not the student's parent, or another entity in Indiana that accepts the placement of a student who:

(1) has legal settlement in the attendance area of a school corporation in another state; and

(2) is enrolled in a school corporation in Indiana;

is the guarantor for the student's transfer tuition under this chapter unless there is another guarantor. The state board shall hear all appeals under this subsection in accordance with section 15 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-19

Court ordered transfers; application

Sec. 19. (a) This section through section 29 of this chapter concern the transfer of students for education from one (1) school corporation (transferor corporation) to another school corporation (transferee corporation) in compliance with a court order as described in this section. This chapter applies solely in a situation where a court of the United States or of Indiana in a suit to which the transferor or transferee corporation or corporations are parties has found the following:

(1) A transferor corporation has violated the equal protection clause of the Fourteenth Amendment to the Constitution of the United States by practicing de jure racial segregation of the students within its borders.

(2) A unitary school system within the meaning of the Fourteenth Amendment cannot be implemented within the boundaries of the transferor corporation.

(3) The Fourteenth Amendment compels the court to order a transferor corporation to transfer its students for education to one (1) or more transferee corporations to effect a plan of desegregation in the transferor corporation that is acceptable within the meaning of the Fourteenth Amendment.

(b) This chapter does not apply until all appeals from the order, whether taken by the transferor corporation, any transferee corporation or any party to the action, have been exhausted or the time for taking the appeals has expired, except where all stays of a transfer order pending appeal or further court action have been

denied.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-20

Court ordered transfers; definitions

Sec. 20. (a) As used in sections 19 through 29 of this chapter, "ADM" refers to ADM as defined in IC 21-3-1.6-1.1.

(b) As used in sections 19 through 29 of this chapter, "capital projects fund" refers to the school corporation fund set up under IC 21-2-15.

(c) As used in sections 19 through 29 of this chapter, "class of school" refers to a classification of each school in the transferee corporation by the grades taught therein (generally denominated as elementary schools, middle schools or junior high schools, high schools, and special schools such as schools for special education, vocational training or career education). Elementary schools include schools containing kindergarten, but for purposes of this chapter, a kindergarten student shall be counted as one-half (1/2) student.

(d) As used in sections 19 through 29 of this chapter, "debt service fund" refers to the school corporation fund set up under IC 21-2-4.

(e) As used in sections 19 through 29 of this chapter, "general fund" refers to the school corporation funds set up under IC 21-2-11.

(f) As used in sections 19 through 29 of this chapter, "transferee corporation" means the school corporation receiving students under a court order described in section 19 of this chapter.

(g) As used in sections 19 through 29 of this chapter, "transferor corporation" means the school corporation transferring students under a court order described in section 19 of this chapter.

(h) As used in sections 19 through 29 of this chapter, "transferred student" means any student transferred under a court order described in section 19 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-21

Court ordered transfers; governing body of transferee corporation

Sec. 21. (a) The governing body of a transferee corporation may add two (2) members, one (1) of whom must be a resident of the contributing geographic area within the transferor corporation from which students are being bused, to the transferee corporation's governing body for each transferor corporation that the transferee corporation serves. These members are in addition to the number of members of the governing body who are residents of the transferee corporation.

(b) Each member who is a resident of a contributing transferor corporation added to the governing body of a transferee corporation by this section:

(1) shall be elected by a majority of all registered and eligible voters who vote in each applicable school board election in the school corporation;

(2) must have the same qualifications, other than residency or property ownership, that are required for a member of the governing body who is a resident of the transferee corporation; and

(3) serves for the same number of years as members of the governing body who are residents of the transferee corporation.

(c) The members of the governing body of the transferee corporation shall appoint by majority vote the first additional members of a governing body under this section. The members appointed under this subsection serve until replacement members are elected under subsections (d) and (e).

(d) The first elected members of a governing body from a transferor corporation shall be elected at the first election after the members are added under subsection (a):

(1) that occurs in the transferor corporation; and

(2) where one (1) or more members of the governing body of the transferor corporation are elected.

The election shall be conducted in the manner required by law for the conduct of elections of governing bodies of school corporations.

(e) This subsection applies to an additional member of a governing body appointed under subsection (c) to whom subsection (d) does not apply. The first additional elected member of a governing body must be elected at the first election after the members are added under subsection (a) where one (1) or more members of the governing body of the transferee corporation are elected. The election must be conducted in the manner required by law for the conduct of elections of governing bodies of school corporations.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-22

Court ordered transfers; determination of transfer tuition

Sec. 22. (a) The transferee corporation is entitled to receive from the transferor corporation transfer tuition for each transferred student for each school year calculated in two (2) parts:

(1) operating cost; and

(2) capital cost.

These costs must be allocated on a per student basis separately for each class of school.

(b) The operating cost for each class of school must be based on the total expenditures of the transferee corporation for the class from its general fund expenditures as set out on the classified budget forms prescribed by the state board of accounts, excluding from the calculation capital outlay, debt service, costs of transportation, salaries of board members, contracted service for legal expenses and any expenditure that is made out of the general fund from extracurricular account receipts, for the school year.

(c) The capital cost for each class of school must consist of the lesser of the following alternatives:

(1) The capital cost must be based on an amount equal to five

percent (5%) of the cost of transferee corporation's physical plant, equipment, and all items connected to the physical plant or equipment, including:

(A) buildings, additions, and remodeling to the buildings, excluding ordinary maintenance; and

(B) on-site and off-site improvements such as walks, sewers, waterlines, drives, and playgrounds;

that have been paid or are obligated to be paid in the future out of the general fund, capital projects fund, or debt service fund, including principal and interest, lease rental payments, and funds that were legal predecessors to these funds. If an item of the physical plant, equipment, appurtenances, or part of the item is more than twenty (20) years old at the beginning of the school year, the capital cost of the item shall be disregarded in making the capital cost computation.

(2) The capital cost must be based on the amount budgeted from the general fund for capital outlay for physical plant, equipment, and appurtenances and the amounts levied for the debt service fund and the capital projects fund for the calendar year in which the school year ends.

(d) If an item of expense or cost cannot be allocated to a class of school, the item shall be prorated to all classes of schools on the basis of the ADM of each class in the transferee corporation compared to the total ADM therein.

(e) The transfer tuition for each student transferred for each school year shall be calculated by dividing the transferee school corporation's total operating costs and the total capital costs for the class of school in which the student is enrolled by the ADM of students therein. If a transferred student is enrolled in a transferee corporation for less than the full school year, the transfer tuition shall be calculated by the proportion of such school year for which the transferred student is enrolled. A school year for this purpose consists of the number of days school is in session for student attendance. A student shall be enrolled in a transferee school, whether or not the student is in attendance, unless the:

(1) student's residence is outside the area of students transferred to the transferee corporation;

(2) student has been excluded or expelled from school; or

(3) student has been confirmed as a school dropout.

The transferor and transferee corporations may enter into written agreements concerning the amount of transfer tuition. If an agreement cannot be reached, the amount shall be determined by the state superintendent, with costs to be established, where in dispute, by the state board of accounts.

(f) The transferor corporation shall pay the transferee corporation, when billed, the amount of book rental due from transferred students who are unable to pay the book rental amount. The transferor corporation is entitled to collect the amount of the book rental from the appropriate township trustee, from its own funds, or from any other source, in the amounts and manner provided by law.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-23

Court ordered transfers; emergency funds for transfer

Sec. 23. (a) If a transfer is ordered to commence in a school year, where the transferor corporation has net additional costs over savings (on account of any transfer ordered) allocable to the calendar year in which the school year begins, and where the transferee corporation does not have budgeted funds for the net additional costs, the net additional costs may be recovered by one (1) or more of the following methods in addition to any other methods provided by applicable law:

- (1) An emergency loan made under IC 21-2-21-6 to be paid, out of the debt service levy and fund, or a loan from any state fund made available for the net additional costs.
- (2) An advance in the calendar year of state funds, which would otherwise become payable to the transferee corporation after such calendar year under law.
- (3) A grant or grants in the calendar year from any funds of the state made available for the net additional costs.

(b) The net additional costs must be certified by the department of local government finance, and any grant shall be made solely after affirmative recommendation of the school property tax control board established by IC 6-1.1-19-4.1. Repayment of any advance or loan from the state shall be made in accordance with IC 6-1.1-19-4.5(d). The use of any of the methods in this section does not subject the transferor corporation to IC 6-1.1-19-4.7.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-24

Court ordered transfers; time of payment of transfer tuition

Sec. 24. Transfer tuition for each school year shall be paid by the transferor corporation during the term of the year and following the end of term in four (4) installments within ten (10) days after the first day of November, February, May and August, respectively. The first three (3) payments shall be calculated on the basis of estimates based on the previous year's cost per student and the enrollment for the day schools are open in the transferee corporation next preceding the applicable payment date.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-25

Court ordered transfers; payment and receipt of funds

Sec. 25. (a) Payment of the operating cost must be paid from and receipted to the respective general funds of the transferor and transferee corporations.

(b) Payment of capital costs must be made by the transferor corporation, at its discretion, from any fund or source and be receipted by the transferee corporation, at its discretion, either to the cumulative building fund or to the debt service fund.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-26

Court ordered transfers; transportation

Sec. 26. The transferor corporation shall provide each transferred student transportation to and from the school in the transferee corporation to which the student is assigned. However, the transferor corporation may require the transferred student to walk a reasonable distance from the student's home to school or to a transportation pickup point.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-27

Court ordered transfers; transportation contracts

Sec. 27. Transportation must be provided by the transferor corporation to each transferred student under IC 20-27. However, the transferor corporation may contract with the transferee corporation to provide transportation to the transferred students (the transferor corporation paying the costs of transportation) and that the transferor corporation, in addition to the other means of financing the purchase of transportation equipment, may make the purchases out of its cumulative building fund.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-28

Court ordered transfers; state reimbursement of transportation costs

Sec. 28. Transportation costs for transferred students for each calendar year or for capital outlay and for operations shall be reimbursed by the state to the transferor corporation in the same percent of the total outlay that the distributions to the transferor corporation under IC 21-3-1.5-3, or from the state flat grant distribution account where it is credited to the general fund, constitute its total annual general fund appropriations for such year. In this calculation, there shall be excluded from general fund appropriations capital outlay, debt service, and any expenditure that is made out of the general fund from extracurricular accounts. Any amount not reimbursed and raised as part of the transferor corporation's general fund levy constitutes an increase in its base tax levy for that budget year, as otherwise defined and as applied in IC 6-1.1-1-16 and IC 6-1.1-1-19. The state reimbursement for transportation operating expense to the transferor corporation may not be less than it would receive under applicable law without regard to this section.

As added by P.L.1-2005, SEC.10.

IC 20-26-11-29

Court ordered transfers; implementation

Sec. 29. (a) The provisions of sections 19 through 29 of this chapter concerning the calculation of transfer tuition, the credits for

state distribution, state reimbursement of transportation costs, or other state reimbursement may be implemented by rules adopted by the state board.

(b) The state board shall adopt rules for the enforcement of the payment of transfer tuition. The payment enforcement may include the withholding of state support from the transferor corporation for the benefit of the transferee corporation.

(c) A transferor or the transferee corporation may dispute the amount of transfer tuition or state reimbursement by petitioning the state superintendent. Any dispute in the amount of transfer tuition or state reimbursement shall be determined by the state superintendent.

As added by P.L.1-2005, SEC.10.